

PATENT COOPERATION TREATY

PCT


INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 23 MAR 2006

WIPO PCT

Applicant's or agent's file reference 2K2BL40/MJ/1		FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/NL2004/000846		International filing date (day/month/year) 03.12.2004	Priority date (day/month/year) 03.12.2003	
International Patent Classification (IPC) or national classification and IPC B29C63/02, D06N7/00				
Applicant VISKER BEHEER B.V. et al.				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 9 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input checked="" type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input checked="" type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand 03.10.2005		Date of completion of this report 22.03.2006		
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Lanaspeze, J Telephone No. +49 89 2399-7735		



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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1-10 as originally filed

Claims, Numbers

1-29 as originally filed

Drawings, Sheets

1/3-3/3 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:
- ☐ the entire international application,
 - ☒ claims Nos. 6,7,14,15,22,23,27,28
because:
 - ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):
 - ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
 - ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
 - ☒ no international search report has been established for the said claims Nos. 6,7,14,15,22,23,27,28
 - ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
 - the written form ☐ has not been furnished
 - ☐ does not comply with the standard
 - the computer readable form ☐ has not been furnished
 - ☐ does not comply with the standard
 - ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.
 - ☐ See separate sheet for further details

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Box No. IV Lack of unity of invention

1. ☒ In response to the invitation to restrict or pay additional fees, the applicant has:
- ☐ restricted the claims.
 - ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☒ neither restricted nor paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
- ☐ complied with.
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☐ all parts.
 - ☒ the parts relating to claims Nos. 1-5,8-13,16-21,24-26,29 .

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2-5,8,10-13,18-21,24,25,29
	No: Claims	1,9,16,17,26
Inventive step (IS)	Yes: Claims	
	No: Claims	1-5,8-13,16-21,24-26,29
Industrial applicability (IA)	Yes: Claims	1-5,8-13,16-21,24-26,29
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Re Item IV

Lack of unity of invention

The separate inventions are:

Claims 1-5,8-13,16-21,24-26,29

Method for applying a covering layer provided with openings, method for manufacturing a coating package comprising a covering layer provided with openings, and corresponding coating package.

Claims 6,7,14,15,22,23,27,28

Method for applying a covering layer provided with spacers.

They are not so linked as to form a single general inventive concept (Rule 13.1 PCT) for the following reasons:

The closest prior art is EP-A-573676 which describes a method for applying a covering layer to a substrate comprising:

- providing a flat, flexible carrier;
- applying a covering layer to the carrier;
- partly cross-linking the covering layer on the carrier;
- applying the partly cross-linked covering layer to a wooden substrate.

1. From a comparison of the disclosure of EP-A-573676 and the technical features of claims 1-5,8-13,16-21,24-26,29, the following technical feature can be seen to make a contribution over the prior art and therefore is considered to be the STF (Special Technical Feature (Rule 13.2 PCT)) of the first invention:

- openings provided in the covering layer;

From this STF the objective problem to be solved by the first invention can be seen in preventing inclusion of air between the covering layer and the substrate (see page 3, lines 9-12).

2. From a comparison of the disclosure of EP-A-573676 and the technical features of

claims 6,7,14,15,22,23,27-28*, the following technical feature can be seen to make a contribution over the prior art and therefore is considered to be the STF of the second invention:

- spacers provided in the covering layer and/or in the adhesive layer;

From this STF the objective problem to be solved by the second invention can be seen in improving the aesthetic value of the covered substrate (see page 4, lines 9-17).

The above analysis shows that the special technical features of the two inventions are not the same and are not corresponding.

A comparison of the objective problems related to the two inventions, seen in the light of the description and drawings of the application, shows that they are different and have no corresponding technical effect.

In conclusion, therefore, the two groups of claims are not linked by common or corresponding special technical features and define two different inventions not linked by a single general inventive concept.

The application, hence, does not meet the requirements of unity of invention as defined in Rule 13(1) & (2) PCT.

* Since claims 6,7,14,15,22 and 23 relate to the problem of the second invention, they have been grouped together with claims 27-28.

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:

D1: EP-A-573676 15 December 1993 (1993-12-15) cited in the application

D2: PATENT ABSTRACTS OF JAPAN vol. 009, no. 128 (M-384),
4 June 1985 (1985-06-04) & JP-A-60011338 (TATEY AMA ARUMINIUMU KOGYO
KK), 21 January 1985 (1985-01-21)

D3: GB-A-1458444 15 December 1976 (1976-12-15)

The document D3 was not cited in the international search report. A copy of the document is appended hereto.

2. INDEPENDENT CLAIMS 1,9,16,17,26

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1,9,16,17,26 is not new in the sense of Article 33(2) PCT.

D3 discloses a method for applying a covering layer (the plastic layer of the wall paper) to a substrate (the wall), comprising the steps of applying an adhesive layer in non cross-linked state (see page 2, lines 44-56) to the substrate and applying thereto the cross-linked covering layer, wherein the covering layer is provided with openings (see page 1, lines 66-74).

D3 discloses also a method for manufacturing a coating package (see page 1, lines 66-74), comprising the steps of providing a flat, flexible carrier (the web of paper) and applying one covering layer (the plastics material in monomeric form or as a solution) to the carrier, wherein the covering layer is cross-linked (hardened) on the carrier and is provided with openings.

D3 discloses also a coating package (the wall paper) comprising a flat, flexible carrier (the paper web) to which is applied one covering layer (the plastic materials) in cross-linked state (hardened), wherein the covering layer is provided with openings.

Hence D3 discloses all the features of claims 1,9,16,17,26.

3. INDEPENDENT CLAIM 25.

The present application does not meet the criteria of Article 33(1) PCT, because the subject matter of claim 25 does not involve an inventive step in the sense of Article

33(3)PCT.

- 3.1 Document D1, which is considered to represent the most relevant state of the art to the subject matter of claim 25, discloses a method for applying a covering layer to a substrate with the following steps:
- providing a coating package comprising a flat, flexible carrier to which is applied a covering layer in cross-linked state;
 - separating the covering layer from the carrier;
 - applying the covering layer on the substrate.
- 3.2 The subject matter of claim 25 differs from the method disclosed in D1 essentially in that the covering layer is provided with openings, and further in the use of an adhesive layer.
- 3.3 The subject-matter of claim 25 is therefore novel (Article 33(2) PCT).
- 3.4 The problem to be solved by the present invention may therefore be regarded as preventing inclusion of air between the covering layer and the substrate (see description from page 1, line 31 to page 2, line 10 and page 3, lines 9-12).
- 3.5 The solution proposed in claim 25 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons:

A covering layer with openings is described in document D2 as providing the same advantages as in the present application. The skilled person would therefore regard it as a normal option to include openings in the covering layer described in document D1 in order to solve the problem posed.

4. DEPENDENT CLAIMS 2-5,8,10-13,18-21,24,29

Dependent claims 2-5,8,10-13,18-21,24,29 do not seem to contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step (Article 33(2) and (3) PCT).

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Re Item VII

Certain defects in the international application

The present set of claims comprise two different claims 16.